

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

JIMMY K. KAZEE, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 2:05-cv-00085

JO ANNE B. BARNHART,  
Commissioner of Social Security,

Defendant.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court grant the plaintiff's motion for judgment on the pleadings, deny the defendant's motion for judgment on the pleadings, reverse the final decision of the Commissioner, remand this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), and dismiss the action from the court's docket.


Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge. The court **GRANTS** the plaintiff's motion for judgment on the pleadings, **DENIES** the defendant's motion for judgment on the pleadings, **REVERSES** the final decision of the Commissioner, **REMANDS** this case for further proceedings consistent with the Magistrate

Judge's findings and recommendation and pursuant to the fourth sentence of 42 U.S.C. § 405(g), and **DISMISSES** this action for the docket of the court.

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: December 8, 2005



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE